



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

SEP 08 2014

REPLY TO THE ATTENTION OF:

E-19J

Brian Elkington  
U.S. Fish and Wildlife Service  
5600 American Boulevard West  
Bloomington, Minnesota 55437

**RE: Final Environmental Impact Statement: Ballville Dam Project – Sandusky County, Ohio  
CEQ #20140205**

Dear Mr. Elkington:

The U.S. Environmental Protection Agency (USEPA) has reviewed the Final Environmental Impact Statement (Draft EIS) for the Ballville Dam Project located in Sandusky County, Ohio. This letter provides our comments on the Final EIS, pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR 1500-1508), and Section 309 of the Clean Air Act.

The Ballville Dam is located approximately 18 river miles upstream of Lake Erie, in Ballville Township, upstream of the City of Fremont, in Sandusky County, Ohio. Its location falls within a 70-mile stretch of the Sandusky River, designated as one of 10 reaches of state-designated scenic river in Ohio. It was built on the Sandusky River between 1911 and 1913. Originally built as a run-of-the-river hydroelectric generation facility, it was soon abandoned as a hydroelectric facility because seasonal flow in the river was insufficient to meet power generating requirements of the plant. The City of Fremont (City) bought the land and facilities in 1959 and re-purposed the dam to provide the City's water supply. Since the purchase of the Ballville Dam by the City in 1959, the impounded area has been used as a source of public water. Due to ongoing drinking water quality violations, the Ohio Environmental Protection Agency (OEPA) ordered the City to construct an off-stream reservoir to serve as a drinking water source. As of late 2013, this new off-stream raw water reservoir, now constructed, is currently the primary source of drinking water for the City of Fremont. The Ballville Dam and the impounded area are no longer necessary as a public water supply for the City of Fremont.

Progressive deterioration of the dam and an adjacent north bank seawall has been noted in successive inspections by the Ohio Department of Natural Resources (ODNR), beginning in 1980. The last known maintenance performed on the structure occurred in 1969. The dam is currently classified by ODNR as a Class I structure; this is the highest hazard rating due to the probable loss of life if the dam were to fail during a flood event. In addition to safety issues, the Ballville Dam divides the aquatic ecology of the lower Sandusky River, altering biological functions and impacting both riparian and aquatic habitats otherwise provided by a historically-connected Sandusky River

watershed. The dam represents an impassable barrier to upstream movement of all aquatic organisms and to downstream movement of many aquatic organisms, and has altered natural hydrologic and sediment transport functions in the Sandusky River.

The Final EIS selected Alternative 4 - Incremental Dam Removal with installation of an ice control structure (ICS) as the Proposed Action for providing fish passage upstream and downstream of the Ballville Dam location, restoring natural hydrologic and sediment transport regimes, and addressing dam safety and liability. The Proposed Action would be divided into three phases with each phase having multiple objectives for meeting dam removal goals. In summary, the phases are: 1) the initial notching of the Ballville Dam; 2) sediment stabilization, dam removal, and ice control structure construction; and 3) sea wall modification along the north bank of the river upstream of the dam removal, and restoration of the project area. Phase 3 would also include the demolition of any remnants of Tucker Dam<sup>1</sup>, if necessary.

USEPA provided comments on the Draft EIS to USFWS on March 6, 2014. USEPA appreciates USFWS's diligence in responding to public comments raised during the Draft EIS comment period. Additionally, USEPA commends the coordination efforts and the level of detail provided in USFWS's responses to USEPA's comments on the Draft EIS. Nearly all of the comments provided by USEPA in our Draft EIS comment letter had a thorough response provided. We recommend that USFWS and the City of Fremont address our remaining concerns and issues as project design, refinement, and environmental permitting progress. USEPA's comments on the Final EIS are as follows:

#### **WETLAND AND WATER RESOURCE IMPACTS/MITIGATION REQUIREMENTS**

- The Proposed Action will require direct impacts to 0.67 acre of wetlands (six wetlands) and 2.34 acres of the Sandusky River, and indirect impacts to 53.90 acres of wetlands (nine wetlands). Indirect wetland impacts are attributed primarily to the loss of wetland hydrology associated with the drop in water level following dam removal. Many wetland functions and values will be lost if these existing wetlands revert to upland areas. In addition to wetland fill, the loss of (via indirect impacts to) over 50 acres of wetlands, primarily high quality Class 3 forested wetlands, continues to be of significant concern to USEPA. Page 5-24 of the Final EIS states, "*In summary, 49.9 acres of forested floodplain wetland<sup>2</sup> would be subject to indirect impacts from loss of hydrology; potentially 35.8 acres of new wetland could be formed, which totals a net loss of 14 floodplain [wetland] acres.*" Additionally, Page 5-25 of the Final EIS states that the overall project could result in a net loss of over 30 acres of wetland.

While the Final EIS states that there is the potential for the development of new wetlands in areas currently inundated by the Ballville Dam impoundment (in the range of 22.80 to 54.60 acres), there is substantial uncertainty as to the quality, location, and acreage of wetlands that may actually develop post dam removal. Furthermore, even if the maximum expected acreage of 54.60 acres of new wetlands forms, the expected net gain of wetland would only be 0.65 acre. It is highly likely that the project, if implemented as proposed, will result in a net loss of natural wetlands.

---

<sup>1</sup> The Tucker Dam was reportedly built between 1835 and 1858 and was a nine foot tall timber crib design that used water power to work a flour grist-mill. This dam and mill was reported to be operational into the early 1900's and was located within the current Ballville Dam impoundment.

<sup>2</sup> The 49.9 acres of forested floodplain wetland referenced in this Final EIS statement is a subtotal of the 53.90 acres of indirect wetland loss expected.

The Final EIS briefly notes that the current proposal for wetland mitigation is creation of at least 14.5 acres of "in-kind" wetland within the former impoundment. Additionally, "out-of-kind" mitigation proposing implementation of measures that improve and restore the water quality of the Sandusky River is also proposed. No specific mitigation for indirect wetland impacts has been, or is currently, proposed. At the time of the Final EIS, wetland mitigation plans had not been finalized, and discussion on mitigation requirements with the regulatory agencies were ongoing. However, wetland mitigation proposals currently appear to allow a net loss of wetland acreage associated with the project.

**Recommendations:** While USEPA supports the overall goals of this project, USEPA recommends that USFWS and the City of Fremont provide wetland mitigation for both direct and indirect wetland impacts in a manner that ensures no net loss of wetland. Out-of-kind mitigation may be determined to be appropriate for impacts to the Sandusky River itself. USEPA supports mitigation ratios proposed for direct wetland impacts. Wetland mitigation for indirect wetland impacts should, however, also be provided. Any updated mitigation information and plans should align with information (or application amendments) to be provided to both the U.S. Army Corps of Engineers (USACE) and the Ohio Environmental Protection Agency (OEPA) for Clean Water Act Section 404 permitting and Section 401 Water Quality Certification. To the extent mitigation commitments are finalized by the time the Record of Decision (ROD) is finalized, mitigation obligations should be committed to in the ROD.

- Both the Draft and Final EISs state that there is the potential for development of new wetlands in areas currently inundated by the Ballville Dam impoundment (in the range of 22.80 to 54.60 acres). While USEPA concurs that predictions regarding the exact size, location, and type of newly-formed wetlands post-dam removal are uncertain, we reiterate our concerns over the lack of substantive commitments in both the Draft and Final EIS that ensure project implementation, including mitigation, results in no net loss of wetlands.

**Recommendations:** USEPA encourages additional coordination between USFWS, the City of Fremont, and the regulatory agencies to ensure that project implementation does not result in a net loss of wetland. Wetland mitigation for both direct and indirect wetland impacts should be committed to and undertaken to ensure no net loss of wetlands through project implementation. Commitments for both direct and indirect wetland impacts should be committed to in the ROD.

## **THREATENED AND ENDANGERED SPECIES**

- Section 5.4.2.1.1 of the Final EIS discusses tree clearing restriction dates to be utilized (no clearing between April 1 to October 1) in order to avoid impacts to the Indiana Bat and Northern Long-Eared Bat. For any tree clearing deemed necessary between April 1 to October 1, specific actions will be undertaken, including habitat assessments, emergence surveys (if deemed necessary), and specific tree cutting protocols due to the presence or absence of emerging bats from specific trees.

**Recommendation:** USEPA requests that these restriction dates and specific actions be committed to in the ROD. All tree removals scheduled during the dates of April 1 to October 1 should also be coordinated with the Ohio Department of Natural Resource (ODNR).

Thank you for the opportunity to review and comment on this Final EIS. Please send a signed copy of the Record of Decision to USEPA once it is available. We are available to discuss our comments with you in further detail if requested. If you have any questions or comments regarding the content of this letter, please contact Ms. Liz Pelloso, PWS, of my staff at 312-886-7425 or via email at [pelloso.elizabeth@epa.gov](mailto:pelloso.elizabeth@epa.gov).

Sincerely,



Kenneth A. Westlake, Chief  
NEPA Implementation Section  
Office of Enforcement and Compliance Assurance

cc: Jim Ellis, Mayor of Fremont  
Gary Harsanye, ODNR-Engineering  
Becky Jenkins, ODNR-Wildlife  
Scott Zody, ODNR-Wildlife  
Christina Kuchle, ODNR-Scenic Rivers  
Joseph Krawczyk, USACE-Buffalo District (LRB-2011-00046)  
Dave Snyder, OHPO  
Heather Allamon, OEPA-NWDO  
Ric Queen, OEPA-Columbus